



Interim Audit Report of the Audit Division on the Illinois Republican Party

(January 1, 2011 - December 31, 2012)

Why the Audit Was Done

Federal law permits the Commission to conduct audits and field investigations of any political committee that is required to file reports under the Federal Election Campaign Act (the Act). The Commission generally conducts such audits when a committee appears not to have met the threshold requirements for substantial compliance with the Act.¹ The audit determines whether the committee complied with the limitations, prohibitions and disclosure requirements of the Act.

Future Action

The Commission may initiate an enforcement action, at a later time, with respect to any of the matters discussed in this report.

About the Committee (p. 2)

The Illinois Republican Party is a state party committee headquartered in Chicago, Illinois. For more information, see the chart on the Committee Organization. p.2.

Financial Activity² (p. 2)

| | |
|--|---------------------|
| • Receipts | |
| ○ Contributions from Individuals | \$ 1,129,720 |
| ○ Contributions from Political Committees | 1,201,954 |
| ○ Transfers from Affiliated and Other Political Committees | 1,576,813 |
| ○ Transfers from Non-federal Account | 395,959 |
| ○ Other Receipts | 344,928 |
| Total Receipts | \$ 4,649,374 |
| • Disbursements | |
| ○ Operating Expenditures | \$ 1,295,631 |
| ○ Federal Election Activity | 3,122,532 |
| ○ Contributions to Federal Candidates | 5,500 |
| ○ Other Disbursements | 163,600 |
| Total Disbursements | \$ 4,587,263 |

Findings and Recommendations (p. 3)

- Misstatement of Financial Activity (Finding 1)
- Reporting of Apparent Independent Expenditures (Finding 2)
- Recordkeeping for Communications (Finding 3)
- Receipt of Apparent Prohibited In-Kind Contributions (Finding 4)
- Reporting of Debts and Obligations (Finding 5)
- Recordkeeping for Employees (Finding 6)

¹ 52 U.S.C. §30111(b).

² IRP had a Levin account that had received \$459 in March 2011 and maintained that balance throughout the audit period.

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Table of Contents

| | Page |
|---|-------------|
| Part I. Background | |
| Authority for Audit | 1 |
| Scope of Audit | 1 |
| Part II. Overview of Committee | |
| Committee Organization | 2 |
| Overview of Financial Activity | 2 |
| Part III. Summaries | |
| Findings and Recommendations | 3 |
| Part IV. Findings and Recommendations | |
| Finding 1. Misstatement of Financial Activity | 5 |
| Finding 2. Reporting of Apparent Independent Expenditures | 7 |
| Finding 3. Recordkeeping for Communications | 12 |
| Finding 4. Receipt of Apparent Prohibited In-Kind Contributions | 14 |
| Finding 5. Reporting of Debts and Obligations | 15 |
| Finding 6. Recordkeeping for Employees | 16 |

Part I

Background

Authority for Audit

This report is based on an audit of the Illinois Republican Party (IRP), undertaken by the Audit Division of the Federal Election Commission (the Commission) in accordance with the Federal Election Campaign Act of 1971, as amended (the Act). The Audit Division conducted the audit pursuant to 52 U.S.C. §30111(b), which permits the Commission to conduct audits and field investigations of any political committee that is required to file a report under 52 U.S.C. §30104. Prior to conducting any audit under this subsection, the Commission must perform an internal review of reports filed by selected committees to determine if the reports filed by a particular committee meet the threshold requirements for substantial compliance with the Act. 52 U.S.C. §30111(b).

Scope of Audit

Following Commission-approved procedures, the Audit staff evaluated various risk factors and as a result, this audit examined:

1. the disclosure of individual contributors' occupation and name of employer;
2. the disclosure of disbursements, debts and obligations;
3. the disclosure of expenses allocated between federal and non-federal accounts;
4. the consistency between reported figures and bank records;
5. the completeness of records;
6. the disclosure of independent expenditures; and
7. other committee operations necessary to the review.

Commission Guidance

Request for Early Commission Consideration of a Legal Question

Pursuant to the Commission's "Policy Statement Establishing a Program for Requesting Consideration of Legal Questions by the Commission," several state party committees unaffiliated with IRP requested early consideration of a legal question raised during audits covering the 2010 election cycle. Specifically, the Commission addressed whether monthly time logs under 11 CFR §106.7(d)(1) were required for employees paid with 100 percent federal funds.

The Commission concluded, by a vote of 5-1, that 11 CFR §106.7(d)(1) does require committees to keep a monthly log for employees paid exclusively with federal funds. Exercising its prosecutorial discretion, however, the Commission decided it will not pursue recordkeeping violations for the failure to keep time logs or to provide affidavits to account for employee salaries paid with 100 percent federal funds and reported as such. The Audit staff informed IRP representatives of the payroll log requirement and of the Commission's decision not to pursue recordkeeping violations for failure to keep payroll logs for salaries paid and correctly reported as 100 percent federal. This audit report does not include any findings or recommendations with respect to IRP employees paid with 100 percent federal funds and reported as such.

Part II

Overview of Committee

Committee Organization

| | |
|--|---|
| Important Dates | |
| • Date of Registration | July 10, 1976 |
| • Audit Coverage | January 1, 2011 - December 31, 2012 |
| Headquarters | |
| Chicago, Illinois | |
| Bank Information | |
| • Bank Depositories | One |
| • Bank Accounts | Four Federal and Two Non-federal |
| Treasurer | |
| • Treasurer When Audit Was Conducted | Judy Diekelman - May 20, 2014 - Present Dave Syverson - through May 19, 2014 |
| • Treasurer During Period Covered by Audit | Dave Syverson |
| Management Information | |
| • Attended Commission Campaign Finance Seminar | No |
| • Who Handled Accounting and Recordkeeping Tasks | Paid and Volunteer Staff |

Overview of Financial Activity (Audited Amounts)

| | |
|--|---------------------|
| Cash-on-hand @ January 1, 2011 | \$ 24,000 |
| Receipts | |
| ○ Contributions from Individuals | 1,129,720 |
| ○ Contributions from Political Committees | 1,201,954 |
| ○ Transfers from Affiliated and Other Political Committees | 1,576,813 |
| ○ Transfers from Non-federal Account | 395,959 |
| ○ Other Receipts | 344,928 |
| Total Receipts | \$ 4,649,374 |
| Disbursements | |
| ○ Operating Expenditures | 1,295,631 |
| ○ Federal Election Activity | 3,122,532 |
| ○ Contributions to Federal Candidates | 5,500 |
| ○ Other Disbursements | 163,600 |
| Total Disbursements | \$ 4,587,263 |
| Cash-on-hand @ December 31, 2012 | \$ 86,111 |

Part III

Summaries

Findings and Recommendations

Finding 1. Misstatement of Financial Activity

During audit fieldwork, a comparison of IRP's reported financial activity with bank records revealed a misstatement of receipts, disbursements and ending cash for 2011 and a misstatement of receipts and disbursements for 2012. In 2011, IRP overstated its receipts by \$36,327, its disbursements by \$46,370 and understated its ending cash by \$13,717. In 2012, IRP understated its receipts by \$254,528 and its disbursements by \$295,544. The Audit staff recommends that IRP amend its disclosure reports to correct the misstatements. (For more detail, see p. 5.)

Finding 2. Reporting of Apparent Independent Expenditures

During audit fieldwork, the Audit staff reviewed disbursements totaling \$273,126 that IRP disclosed on Schedule B, Line 30(b), (Federal Election Activity Paid Entirely with Federal Funds), that appeared to be direct mail or media-related independent expenditures that should have been disclosed on Schedule E, Line 24, (Independent Expenditures).

Additionally, IRP did not provide sufficient documentation pertaining to dissemination dates to verify whether 24/48-hour reports were required to be filed for the apparent independent expenditures totaling \$273,126. IRP also did not provide invoices associated with 27 direct mail communications that contained express advocacy as defined under 11 CFR 100.22 (a).

If IRP believes that the apparent independent expenditures, including the \$273,126 and the 27 direct mail communications above, were not required to be disclosed as independent expenditures, the Audit staff recommends that IRP provide evidence to support its conclusion. Absent such evidence, the Audit staff recommends that IRP amend its reports to disclose these disbursements as independent expenditures on Schedule E and submit revised procedures for reporting independent expenditures. Lastly, the Audit staff recommends that IRP provide documentation to support the date of public dissemination for each communication to determine whether a filing of a 24/48 hour report was required. (For more detail, see p. 7.)

Finding 3. Recordkeeping for Communications

During audit fieldwork, the Audit staff reviewed disbursements to verify the accuracy of the information and proper classification of transactions disclosed on reports. IRP reported 19 expenditures totaling \$357,613, on Schedule B, Line 30(b) and Schedule H4 with the purposes of FEA Volunteer Mail, Advocacy calls for Federal candidates, Direct Mail Services, equipment and phone minutes for Federal candidates and Auto-Dialer for Federal candidates. Documentation that was provided by IRP was insufficient to make a determination pertaining to the purpose for these disbursements and verification as Federal Election Activity or Allocated Federal/Non-federal Activity. The Audit staff recommends that IRP provide, in sufficient

detail, the necessary information from which the reported expenditures totaling \$357,613 may be verified or explained. Such records should include copies of invoices and identification of the associated communication, and, if the communication has already been provided, information associating each communication with an invoice(s). (For more detail, see p. 12.)

Finding 4. Receipt of Apparent Prohibited In-Kind Contributions

During audit fieldwork, the Audit staff identified apparent prohibited in-kind contributions totaling \$72,880 accepted by IRP. The apparent prohibited in-kind contributions consisted of postage paid for campaign mailers. The Audit staff recommends that IRP demonstrate that the contributions received were from a permissible source or refund the amount. (For more detail, see p. 14.)

Finding 5. Reporting of Debts and Obligations

During audit fieldwork, the Audit staff noted that IRP failed to report debts and obligations to 14 vendors totaling \$294,117 on Schedule D (Debts and Obligations). The Audit staff recommends that, absent documentation demonstrating that these expenditures did not require reporting on Schedule D, IRP amend its disclosure reports to disclose these debts. (For more detail, see p. 15.)

Finding 6. Recordkeeping for Employees

During audit fieldwork, the Audit staff determined that IRP did not maintain any monthly payroll logs, as required, to document the percentage of time each employee spent in connection with a federal election. For 2011 and 2012, the Audit staff identified payments to IRP employees totaling \$558,089 for which IRP did not maintain monthly payroll logs. This consisted of \$542,812 for which payroll was allocated with federal and non-federal funds, and \$15,277 for which payroll was exclusively non-federal. For IRP employees paid with an allocation of federal and non-federal funds or exclusively non-federal funds, the Audit staff recommends that IRP provide monthly payroll logs that indicate the time spent in connection with a federal election. Absent the provision of monthly payroll logs, the Audit staff recommends that IRP implement a plan to maintain such monthly payroll logs in the future. (For more detail, see p. 16.)

Part IV

Findings and Recommendations

Finding 1. Misstatement of Financial Activity

Summary

During audit fieldwork, a comparison of IRP's reported financial activity with bank records revealed a misstatement of receipts, disbursements and ending cash for 2011 and a misstatement of receipts and disbursements for 2012. In 2011, IRP overstated its receipts by \$36,327, its disbursements by \$46,370 and understated its ending cash by \$13,717. In 2012, IRP understated its receipts by \$254,528 and its disbursements by \$295,544. The Audit staff recommends that IRP amend its disclosure reports to correct the misstatements.

Legal Standard

Contents of Reports. Each report must disclose:

- the amount of cash-on-hand at the beginning and end of the reporting period;
- the total amount of receipts for the reporting period and for the calendar year;
- the total amount of disbursements for the reporting period and for the calendar year; and certain transactions that require itemization on Schedule A (Itemized Receipts) or Schedule B (Itemized Disbursements). 52 U.S.C. §30104(b)(1), (2), (3), (4) and (5).

Facts and Analysis

A. Facts

As part of audit fieldwork, the Audit staff reconciled IRP's reported financial activity with its bank records for 2011 and 2012. The reconciliation determined that for 2011, IRP misstated receipts, disbursements and ending cash and for 2012, misstated receipts and disbursements. The following charts outline the discrepancies between IRP's disclosure reports and its bank records.

| 2011 Reported Activity to Bank Activity | | | |
|--|-----------|--------------|-------------------------|
| | Reported | Bank Records | Discrepancy |
| Beginning Cash Balance @ January 1, 2011 | \$20,326 | \$24,000 | \$3,674 Understated |
| Receipts | \$776,115 | \$739,788 | \$36,327 Overstated |
| Disbursements | \$749,945 | \$703,575 | \$46,370 Overstated |
| Ending Cash Balance @ December 31, 2011 | \$46,496 | \$60,213 | \$13,717 Understated |

The beginning cash balance was understated by \$3,674 and is unexplained, but likely resulted from prior-period discrepancies.

The overstatement of receipts resulted from the following:

- Transfers from the non-federal account, reported in error - \$32,070
- Unexplained differences - 4,257
- Overstatement of Receipts - \$36,327**

The overstatements of disbursements resulted from the following:

- The net over reporting of disbursements of \$52,390 - \$5,777 - \$46,612
- Unexplained differences + 242
- Net Overstatement of Disbursements - \$46,370**

The Audit staff identified 29 disbursements totaling \$52,262 that were reported in January 2011, but not found on bank statements provided. IRP changed depositories prior to the audit cycle. The Audit staff requested the bank statements of the prior depository for the month of January 2011. These statement(s) were not provided to the Audit staff. IRP stated they requested the bank statements but were not able to obtain them. The \$13,717 understatement of the ending cash balance resulted from the misstatements described above.

| 2012 Reported Activity to Bank Activity | | | |
|---|-----------------------|--------------|--------------------------|
| | Reported | Bank Records | Discrepancy |
| Beginning Cash Balance @ January 1, 2012 | \$45,721 ³ | \$60,213 | \$14,492 Understated |
| Receipts | \$3,655,057 | \$3,909,585 | \$254,528 Understated |
| Disbursements | \$3,588,143 | \$3,883,687 | \$295,544 Understated |
| Ending Cash Balance @ December 31, 2012 | \$113,410 | \$86,111 | \$27,299 Overstated |

The understatement of receipts resulted from the following:

- Transfers from Political Committees + \$50,000
- In-kind contributions from Political Committees + 33,973
- Transfers from the non-federal account + 36,453
- Settlement Accounting Fees, not reported + 22,126
- In-kind postage paid by other than IRP⁴ + 72,880
- Unexplained differences + 39,096
- Understatement of Receipts + \$254,528**

The understatement of disbursements resulted from the following:

- Under-reporting of disbursements +\$168,321
- In-kind postage paid by other than IRP + 72,880
- Underreporting of in-kinds from Political Committees + 33,973

³ IRP filed an amended report that reduced its beginning cash by a total of \$775 from the reported 2011 ending cash.

⁴ The source of the payments has not been identified by IRP to the Audit staff. See finding 4.

| | |
|---|---------------------------|
| • Settlement of Accounting Fees, not reported | + 22,126 |
| • Unexplained differences | - 1,756 |
| Net Understatement of Disbursements | <u>+ \$295,544</u> |

The \$27,299 overstatement of ending cash balance resulted from the misstatements described above.

B. Interim Audit Report & Audit Division Recommendation

At the exit conference, the Audit staff provided work papers and discussed the reporting errors that caused the misstatements with IRP representatives. They asked questions about several items and stated that they would file the amendments to ensure that the IRP reports were accurate.

The Audit staff recommends that, within 30 calendar days of service of this report, IRP amend its disclosure reports to correct the misstatements for 2011 and 2012 as noted above.

Finding 2. Reporting of Apparent Independent Expenditures

Summary

During audit fieldwork, the Audit staff reviewed disbursements totaling \$273,126 that IRP disclosed on Schedule B, Line 30(b), (Federal Election Activity Paid Entirely with Federal Funds), that appeared to be direct mail or media-related independent expenditures that should have been disclosed on Schedule E, Line 24, (Independent Expenditures).

Additionally, IRP did not provide sufficient documentation pertaining to dissemination dates to verify whether 24/48-hour reports were required to be filed for the apparent independent expenditures totaling \$273,126. IRP also did not provide invoices associated with 27 direct mail communications that contained express advocacy as defined under 11 CFR 100.22 (a).

If IRP believes that the apparent independent expenditures, including the \$273,126 and the 27 direct mail communications above, were not required to be disclosed as independent expenditures, the Audit staff recommends that IRP provide evidence to support its conclusion. Absent such evidence, the Audit staff recommends that IRP amend its reports to disclose these disbursements as independent expenditures on Schedule E and submit revised procedures for reporting independent expenditures. Lastly, the Audit staff recommends that IRP provide documentation to support the date of public dissemination for each communication to determine whether a filing of a 24/48 hour report was required.

Legal Standard

A. Definition of Independent Expenditures. The term "independent expenditure" means an expenditure by a person for a communication expressly advocating the election or defeat of a clearly identified candidate that is not made in coordination with any candidate or authorized committee or agent of a candidate. No expenditure shall be considered independent if the person making the expenditure allows a candidate, a candidate's authorized committee or their agents, or a political party committee or its agents to become materially involved in decisions

regarding the communication as described in 11 CFR 109.21(d)(2), or shares financial responsibility for the cost of production or dissemination with any such person. 11 CFR §100.16(a) & (c).

B. Expressly Advocating. Expressly advocating means any communication that – (a) Uses phrases such as “vote for the president,” “re-elect your Congressman,” “support the Democratic nominee,” “cast your ballot for the Republican challenger for the Republican challenger for U.S. Senate in Georgia,” accompanied by a picture of one or more candidate(s), or communications of campaign slogan(s) or individual word(s), which in context can have no other reasonable meaning than to urge the election or defeat of one or more clearly identified candidate(s). (b) When taken as a whole and with limited reference to external events, such as the proximity to the election, could only be interpreted by a reasonable person as containing advocacy of the election or defeat of one or more clearly identified candidate(s). 11 CFR §100.22.

C. Disclosure Requirements – General Guidelines. An independent expenditure shall be reported on Schedule E (Itemized Independent Expenditures) if, when added to other independent expenditures made to the same payee during the same calendar year, it exceeds \$200. Independent expenditures made (i.e., publicly disseminated) prior to payment should be disclosed as memo entries on Schedule E and as a debt on Schedule D. Independent expenditures of \$200 or less need not be itemized, though the committee must report the total of those expenditures on line (b) on Schedule E. 11 CFR §§104.3(b)(3)(vii), 104.4(a) and 104.11.

D. Last-Minute Independent Expenditure Reports (24-Hour Reports). Any independent expenditures aggregating \$1,000 or more, with respect to any given election, and made after the 20th day but more than 24 hours before the day of an election, must be reported and the report must be received by the Commission within 24 hours after the expenditure is made. A 24-hour report is required each time additional independent expenditures aggregate \$1,000 or more. The date that a communication is publicly disseminated serves as the date that the committee must use to determine whether the total amount of independent expenditures has, in the aggregate, reached or exceeded the threshold reporting amount of \$1,000. 11 CFR §§104.4(f) and 104.5(g)(2).

E. Independent Expenditure Reports (48-Hour Reports). Any independent expenditures aggregating \$10,000 or more with respect to any given election, at any time during a calendar year, up to and including the 20th day before an election, must be disclosed within 48 hours each time the expenditures aggregate \$10,000 or more. The reports must be received by the Commission within 48 hours after the expenditure is made. The date that a communication is publicly disseminated serves as the date that the committee must use to determine whether the total amount of independent expenditures has, in the aggregate, reached or exceeded the threshold reporting amount of \$10,000. 11 CFR §§104.4(f) and 104.5(g)(1).

F. Formal Requirements Regarding Reports and Statements. Each political committee shall maintain records with respect to the matters required to be reported which shall provide in sufficient detail the necessary information and data from which the filed reports may be verified, explained, clarified, and checked for accuracy and completeness. CFR §104.14(b)(1).

G. Volunteer Activity. The payment by a state committee of a political party of the costs of campaign materials (such as pins, bumper stickers, handbills, brochures, posters, party tabloids or newsletters, and yard signs) used by such committee in connection with volunteer activities on behalf of any nominee(s) of such party is not a contribution, provided that the conditions below are met.

1. Such payment is not for costs incurred in connection with any broadcasting, newspaper, magazine, bill board, direct mail, or similar type of general public communication or political advertising. The term direct mail means any mailing(s) by a commercial vendor or any mailing(s) made from commercial lists.
2. The portion of the cost of such materials allocable to Federal candidates must be paid from contributions subject to the limitations and prohibitions of the Act.
3. Such payment is not made from contributions designated by the donor to be spent on behalf of a particular candidate for federal office.
4. Such materials are distributed by volunteers and not by commercial or for-profit operations.
5. If made by a political committee, such payments shall be reported by the political committee as a disbursement in accordance with 11 CFR §104.3 but need not be allocated to specific candidates in committee reports.
6. The exemption is not applicable to campaign materials purchased by the national party committees. 11 CFR §100.87 (a), (b), (c), (d), (e) and (g) and 11 CFR §100.147 (a), (b), (c), (d), (e) and (g).

Facts and Analysis

A. Reporting of Apparent Independent Expenditures

1. Facts

During audit fieldwork, the Audit staff reviewed disbursements to ensure proper reporting. The Audit staff notes that IRP did not disclose any independent expenditures on Schedule E, however it made apparent media-related expenditures totaling \$273,126 and disclosed them as Federal Election Activity (FEA). These communications, as well as 27 other direct mailers that are not associated with invoices, were identified as possible independent expenditures. To document the use of volunteers, IRP provided four volunteer sign in sheets, two affidavits for which the authors attest to the use of volunteers in all the direct mailers and 24 photographs of volunteer involvement in seven of the mailers.⁵ Based on the documentation provided, the Audit staff was only able to match four mailers and two sign in sheets to photographs for which an invoice was provided, totaling \$33,972, see (a.) below. Two additional sign in sheets were provided, however, they could not be associated with invoices for mailers, see (b.) below. Of the two sign in sheets that could not be associated with invoices, only one could be associated with a mailer.

⁵ This documentation was provided both during fieldwork and in response to the exit conference.

A breakdown analysis of these expenditures is as follows:

a. Apparent Independent Expenditures Reported as FEA Volunteer Mail (Associated Invoice Provided)

IRP made 16 apparent independent expenditures totaling \$273,126 for which it provided a copy of the direct mailer with an associated invoice. Direct mailers totaling \$33,972 for which IRP provided two sign in sheets and photographs are included in the \$273,126 total. According to the Audit staff, each of these direct mailers contained language expressly advocating the election or defeat of a clearly identified candidate as defined under 11 CFR §100.22(a), or when taken as a whole and with limited reference to external events could only be interpreted by a reasonable person as containing advocacy of the election or defeat of one or more clearly identified candidate(s).

b. Apparent Independent Expenditures Reported as FEA Volunteer Mail (No Invoices Associated)

IRP provided 27 different direct mail communications that contained language expressly advocating the election or defeat of clearly identified candidates, as defined under 11 CFR 100.22(a).

IRP did not provide sufficient information to allow each of the 27 communications to be associated with an invoice. Without this additional information, the Audit staff is unable to calculate the disbursement amount for the 27 direct mail communications.

c. Volunteer Material Exemption

In response to the Audit's staff's request during fieldwork for documentation to support the volunteer materials exemption that the committee reported, IRP provided 24 pictures of individuals sorting, bundling and placing the direct mailers into mail bags. IRP supplied three volunteer sign in sheets for three different mailers. Seven different direct mailers can be seen in the pictures provided. Each of the volunteer sign in sheets contained two names. Two of the sign in sheets were dated September 13, 2012 and each had the name of a Republican congressional candidate.

The Commission has addressed the applicability of the volunteer materials exemption in the Final Audit Reports of the Arizona Republican Party, the Democratic Executive Committee of Florida, and the Tennessee Republican Party. In these reports, the Commission recognized a lack of clarity regarding the application of the volunteer materials exemption. The Commission had attempted to formulate a consensus policy regarding what constitutes substantial volunteer involvement for the purpose of applying the exemption,⁶ but this was never achieved. Since a lack of clarity exists concerning the application of the volunteer materials exemption, it follows that the type and amount of documentation needed to support volunteer involvement is also unclear.

⁶ Proposed Interim Enforcement Policy, Agenda document No. 10-16.

In view of the uncertainty regarding the amount of volunteer involvement needed to qualify for the volunteer materials exemption, as well as the amount of documentation required to support such an exemption, the Audit staff recommends that, IRP provide more detailed information and documentation for any volunteer involvement associated with each mailer.

2. Interim Audit Report & Audit Division Recommendation

This issue was presented at the exit conference. The Audit staff provided a schedule detailing these expenditures to IRP representatives. IRP representatives stated that the expenditures were not Independent Expenditures but were non-allocable mailers. IRP officials stated that the direct mail expenditures were for candidate specific mass mailings for which volunteers were utilized.

In response to the exit conference, IRP provided one additional sign in sheet that was dated September 20, 2012⁷ to document the use of volunteers in their mail program. They also provided two affidavits from individuals. In one affidavit, an individual explained that he oversaw the volunteer component of IRP's mail program and that for every mail piece that IRP sent on behalf of federal candidates, volunteers processed those mail pieces in accordance with FEC guidelines. Further, the individual described the process performed by the volunteers as follows: the volunteers unpacked mail pieces; sorted by address; banded together mail pieces, placed them in bags and loaded them for transport. In the second affidavit another individual stated he would go on to become the volunteer coordinator and that as a regular volunteer for IRP, he spent a great deal of time processing volunteer mail for IRP on behalf of Republican congressional candidates. He described the same basic process as the first individual described about the involvement of the volunteers IRP used for Republican candidates for Congress.

The Audit staff recommends that, within 30 calendar days of service of this report, IRP provide:

- Additional invoices and/or information for the 27 direct mail communications containing express advocacy; and
- Documentation and evidence that apparent independent expenditures totaling \$273,126 and the 27 direct mail communications containing express advocacy did not require reporting as independent expenditures. Evidence should include any documentation such as volunteer timesheets and photographs to support the involvement of volunteers in the processing or distribution of the communications noted above.

Absent such evidence, the Audit staff recommends that IRP amend its reports to disclose these disbursements as independent expenditures on Schedule E and submit revised procedures for reporting independent expenditures.

B. Failure to File 24/48-Hour Reports for Independent Expenditures

1. Facts

In addition to not reporting any independent expenditures during the audit period, IRP also did not file 24 or 48-hour reports for any independent expenditures. Therefore, the apparent

⁷ IRP provided three sign in sheets during field work.

independent expenditures identified above by the Audit staff may also have required such filings.

2. Interim Audit Report & Audit Division Recommendation

This issue was presented at the exit conference. The Audit staff provided a schedule detailing these expenditures to IRP representatives. IRP representatives stated that the expenditures were not Independent Expenditures but were non-allocable mailers that used volunteers.

Absent documentation and evidence that apparent independent expenditures totaling \$273,126 and the 27 direct mailer communications containing express advocacy did not require reporting as independent expenditures (per Part A above), the Audit staff recommends that, within 30 calendar days of service of this report, IRP provide documentation to support the date of public dissemination for each communication to determine whether a 24/48-hour report was required.

Finding 3. Recordkeeping for Communications

Summary

During audit fieldwork, the Audit staff reviewed disbursements to verify the accuracy of the information and proper classification of transactions disclosed on reports. IRP reported 19 expenditures totaling \$357,613,⁸ on Schedule B, Line 30(b) and Schedule H4 with the purposes of FEA Volunteer Mail, Advocacy calls for Federal candidates, Direct Mail Services, equipment and phone minutes for Federal candidates and Auto-Dialer for Federal candidates. Documentation that was provided by IRP was insufficient to make a determination pertaining to the purpose for these disbursements and verification as Federal Election Activity or Allocated Federal/Non-federal Activity. The Audit staff recommends that IRP provide, in sufficient detail, the necessary information from which the reported expenditures totaling \$357,613 may be verified or explained. Such records should include copies of invoices and identification of the associated communication, and, if the communication has already been provided, information associating each communication with an invoice(s).

Legal Standard

- A. Formal Requirements Regarding Reports and Statements.** Each political committee shall maintain records with respect to the matters required to be reported which shall provide in sufficient detail the necessary information and data from which the filed reports may be verified, explained, clarified, and checked for accuracy and completeness. 11 CFR §104.14(b)(1).
- B. Preserving Records and Copies of Reports.** The treasurer of a political committee must preserve all records and copies of reports for 3 years after the report is filed. 52 U.S.C. §30102(d).

⁸ Two disbursements totaling \$52,504 were not reported, but are included in the \$357,613.

Facts and Analysis

A. Facts

During audit fieldwork, the Audit staff reviewed disbursements to verify the accuracy of the information and proper classification of transactions disclosed on reports. IRP reported 19 expenditures totaling \$357,613 for which documentation was insufficient to make a determination pertaining to whether these disbursements were correctly reported on Schedule B, Line 30(b) or Schedule H4.

The Audit staff's analysis resulted in the following:

i. **Disbursements- No Invoices or Copies of Communications Provided (\$280,277)**

Disbursements totaling \$280,277 were paid to four direct mail vendors and three phone bank vendors, and were disclosed on Schedule B and Schedule H4, with purposes of FEA Volunteer Mail, Advocacy calls for Federal candidates, Direct Mail Services, equipment and phone minutes for Federal candidates and Auto-Dialer for Federal candidates. Without sufficient details, the Audit staff is unable to verify IRP's reporting of these amounts as Federal Election Activity or Allocated Federal/Non-federal Activity. The Audit staff requested copies of the invoices for the associated direct mail pieces and phone bank scripts for each phone disbursement. To date, these invoices or other information to associate the payments to a particular communication have not been provided.

ii. **Disbursements- Invoices Provided – Not Able to Associate with Copies of Communications (\$77,336)**

IRP reported paying disbursements totaling \$77,336⁹ to two direct mail vendors. IRP disclosed three disbursements on Schedule B, Line 30(b) with purposes of "FEA Volunteer Mail – Walsh". For these disbursements, IRP provided invoices but did not provide information about the related mail communications. Without sufficient details, the Audit staff is unable to verify IRP's reporting of these amounts as FEA Volunteer Mail. The Audit staff requested information that would allow an association between the invoice and the communication, however, to date IRP has not provided this information.

B. Interim Audit Report & Audit Division Recommendation

At the exit conference, the Audit staff presented IRP schedules of the disbursements for which further records were necessary to verify the accuracy of reporting. The Audit staff again requested that IRP provide invoices, copies of communications and scripts that would associate each invoice to the corresponding communication to the committee disclosure reports. The Audit staff recommends that, within 30 calendar days of the service of this report, that IRP, provide the invoice, scripts and the associated mail communication for disbursements totaling \$357,613.

⁹ The amount of invoices associated for these mailers is \$129,490. This is part of Finding 4.

Finding 4. Receipt of Apparent Prohibited In-Kind Contributions

Summary

During audit fieldwork, the Audit staff identified apparent prohibited in-kind contributions totaling \$72,880 accepted by IRP. The apparent prohibited in-kind contributions consisted of postage paid for campaign mailers. The Audit staff recommends that IRP demonstrate that the contributions received were from a permissible source or refund the amount.

Legal Standard

- A. Receipt of Prohibited Contributions – General Prohibition.** Candidates and committees may not accept contributions (in the form of money, in-kind contributions or loans):
1. In the name of another; or
 2. From the treasury funds of the following prohibited sources:
 - Corporations (this means any incorporated organization, including a non-stock corporation, an incorporated membership organization, and an incorporated cooperative);
 - Labor Organizations; or
 - National Banks;
 3. Federal Government Contractors (including partnerships, individuals, and sole proprietors who have contracts with the federal government); and
 4. Foreign Nationals (including individuals who are not U.S. citizens and not lawfully admitted for permanent residence; foreign governments and foreign political parties; and groups organized under the laws of a foreign country or groups whose principal place of business is in a foreign country, as defined in 22 U.S.C. §611(b)). 52 U.S.C. §§30119 and 30121.
- B. Contribution.** A gift, subscription, loan (except a loan made in accordance with 11 CFR 100.72 and 100.73), advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for federal office is a contribution. The term anything of value includes all in-kind contributions, of any goods or services without charge or at a charge that is less than the usual and normal charge for such goods or services. 11 CFR §100.52.

Facts and Analysis

A. Facts

During audit fieldwork, the Audit staff identified apparent prohibited in-kind contributions totaling \$72,880. The apparent prohibited in-kind contributions consisted of payments for postage paid directly to a mail vendor used by IRP for at least 14 mailers that IRP sent out¹⁰. This amount was identified from invoices IRP provided that were for two Congressional

¹⁰ A complete set of invoices was not supplied. The amount of the possible prohibited contributions may be higher.

candidates, Joe Walsh for Congress Committee and Plummer for Congress¹¹. Contained on each of the 14 invoices was an amount for postage that read, "Postage – Paid Directly to Mail House". IRP bank statements, both federal and non-federal, do not show these amounts being paid. The amount paid for postage that could not be traced to IRP bank statements is \$72,880. However, the Audit staff notes that other mailings associated with Candidates that IRP sent out appeared to involve postage paid for by the Candidates' authorized committees. For example, the Randy Hultgren for Congress committee, transferred \$71,379 to IRP and reported the transfers as, "Direct Mail Production." IRP reported spending \$70,622 for three mailers in which the purpose was, FEA Volunteer Mail Hultgren for Congress.

B. Interim Audit Report & Audit Division Recommendation

At the exit conference, the Audit staff provided the supporting documentation and work papers for the apparent prohibited in-kind contributions. The IRP representative stated that the amounts were for one of the Republican Congressional candidates.

The Audit staff recommends that, within 30 calendar days of service of this report, IRP provide evidence demonstrating that the in-kind contributions in question were made with permissible funds.

If IRP does not provide evidence that the funds were permissible, then it should make a refund to the contributors or disgorge these apparent impermissible in-kind contributions to the U.S. Treasury. IRP should provide evidence of any refunds by providing the front and back of the negotiated refund checks.

If funds are not available to make the necessary refunds or disgorgement, IRP should disclose the contributions requiring refunds on Schedule D (Debts and Obligations) until funds become available to make such refunds.

Finding 5. Reporting of Debts and Obligations

Summary

During audit fieldwork, the Audit staff noted that IRP failed to report debts and obligations to 14 vendors totaling \$294,117¹² on Schedule D (Debts and Obligations). The Audit staff recommends that, absent documentation demonstrating that these expenditures did not require reporting on Schedule D, IRP amend its disclosure reports to disclose these debts.

Legal Standard

A. Continuous Reporting Required. A political committee must disclose the amount and nature of outstanding debts and obligations until those debts are extinguished. 52 U.S.C. §30104(b)(8) and 11 CFR §§104.3(d) and 104.11(a).

¹¹ IRP reported receiving \$112,000 from the Joe Walsh for Congress Committee along with \$50,000 from the Plummer for Congress Committee.

¹² Additional records were requested at the exit conference relating to possible debt amounts that IRP disclosed on a separate filing prior to fieldwork. Those records were not provided to the Audit staff.

B. Separate Schedules. A political committee must file separate schedules for debts owed by and to the committee with a statement explaining the circumstances and conditions under which each debt and obligation was incurred or extinguished. 11 CFR §104.11(a).

C. Itemizing Debts and Obligations.

- A debt of \$500 or less must be reported as of the time payment is made or not later 60 days after such obligation is incurred, whichever comes first.
- A debt exceeding \$500 must be disclosed in the report that covers the date on which the debt was incurred. 11 CFR §104.11(b).

Facts and Analysis

A. Facts

During audit fieldwork, the Audit staff reviewed IRP disbursement records and disclosure reports for proper reporting of debts and obligations.¹³ The review identified debts and obligations to 14 vendors totaling \$294,117¹⁴ not reported on Schedule D (Debts and Obligations). Of these debts, \$173,348 was incurred during the audit period and \$120,769 was incurred prior to the audit period and remained outstanding as of the beginning of the audit period. Based on the records, these vendors provided mainly legal services, accounting services, telemarketing and mail services.

B. Interim Audit Report & Audit Division Recommendation

The Audit staff discussed the reporting of debts and obligations with IRP's representatives at the exit conference and provided work papers detailing the unreported debts. Representatives said they will research this and provide additional documentation. IRP representatives stated that they will amend their reports.

The Audit staff recommends that, within 30 calendar days of service of this report, absent documentation demonstrating that these expenditures did not require reporting on Schedule D, IRP amend its disclosure reports to disclose these debts.

Finding 6. Recordkeeping for Employees

Summary

During audit fieldwork, the Audit staff determined that IRP did not maintain any monthly payroll logs, as required, to document the percentage of time each employee spent in connection with a federal election. For 2011 and 2012, the Audit staff identified payments to IRP employees totaling \$558,089¹⁵ for which IRP did not maintain monthly payroll logs. This consisted of \$542,812 for which payroll was allocated with federal and non-federal funds, and \$15,277 for which payroll was exclusively non-federal. For IRP employees paid with an allocation of federal and non-federal funds or exclusively non-federal funds, the Audit staff recommends that IRP provide monthly payroll logs that indicate the time spent in connection

¹³ IRP provided the Audit staff with 177 invoices for 724 disbursements.

¹⁴ Each debt in this amount was counted once even if it requires disclosure over multiple periods.

¹⁵ IRP did not have employees paid with a mixture of federal and non-federal funds and exclusively non-federal funds during the same month.

with a federal election. Absent the provision of monthly payroll logs, the Audit staff recommends that IRP implement a plan to maintain such monthly payroll logs in the future.

Legal Standard

Maintenance of Monthly Logs. Party committees must keep a monthly log of the percentage of time each employee spends in connection with a federal election. Allocations of salaries, wages, and fringe benefits are to be undertaken as follows:

- employees who spend 25 percent or less of their compensated time in a given month on federal election activities must be paid either from the federal account or be allocated as administrative costs;
- employees who spend more than 25 percent of their compensated time in a given month on federal election activities must be paid only from a federal account; and,
- employees who spend none of their compensated time in a given month on federal election activities may be paid entirely with funds that comply with state law. 11 CFR §106.7(d)(1).

Facts and Analysis

A. Facts

Prior to audit fieldwork, the Audit staff was informed by IRP that it did not maintain any monthly payroll logs, as required, to document the percentage of time each employee spent in connection with a federal election. These logs are required to document the proper allocation of federal and non-federal funds used to pay employee salaries and wages. For 2011 and 2012, IRP did not maintain monthly logs for \$558,089¹⁶ in payroll disbursements. This amount includes payroll paid as follows to IRP employees.

- Employees reported on Schedule H4 and paid with federal and non-federal funds during the same month (totaling \$542,812) and;
- Employees paid exclusively with non-federal funds in a given month (totaling \$15,277).

B. Interim Audit Report & Audit Division Recommendation

Prior to fieldwork and at the exit conference, the Audit staff discussed the payroll recordkeeping matter with IRP's representative and counsel. IRP counsel noted that IRP did not maintain payrolls during the 2011-2012 election cycle however, currently does maintain the payroll logs.

The Audit staff recommends that, within 30 calendar days of service of this report, IRP:

- provide evidence that it maintained monthly time logs to document the percentage of time an employee spent in connection with a federal election; or
- implement a plan to maintain monthly payroll logs in the future.

¹⁶ This total does not include payroll for employees paid with 100 percent federal funds and reported as such (see Part I, Background, Commission Guidance, Request for Early Commission Consideration of a Legal Question, Page 1). Payroll amounts are stated net of taxes and fringe benefits.